

REMARKS

Claims 1, 3-30, and 33-42 are pending, with claims 1 and 30 being independent. Claims 2, 31, and 32 have been cancelled. Claims 1 and 30 have been amended. No new subject matter has been added.

Support for the amendments to Claims 1 and 30 can be found at least at page 1, line 27 - page 2, line 7 of the specification as filed; page 3, line 15 - page 6, line 10 of the specification as filed; and in Figures 1 and 2 of the specification as file.

CLAIM REJECTIONS

35 U.S.C. §112

Claims 1 and 3-30 and 32-42 were rejected under 35 U.S.C. §112, second paragraph as being indefinite. More particularly, the Office Action indicated that it was unclear how a database can send information to a computer system using an interface. Herein, the language identified as “unclear” has been amended from “send” to “provide access.” Applicants submit that these 35 U.S.C. §112, paragraph two rejections are overcome by these amendments and respectfully request withdrawal of the rejections.

35 U.S.C. §103(a)

“As reiterated by the Supreme Court in KSR, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries” including “[a]scertaining the differences between the claimed invention and the prior art” (MPEP 2141(II)). “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious” (emphasis in original; MPEP 2141.02(I)).

Claims 1, 3-19, 26-28, 30, 33-35 and 37-39

The instant Office Action states that Claims 1, 3-19, 26-28, 30, 33-35 and 37-39 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hunt et al. (U.S. Patent No. 5,835,716; hereinafter "Hunt") in view of Williams et al. (U.S. Patent No. 6,560,509; hereinafter "Williams") and in further view of Thiel (U.S. Patent No 6,035,291, hereinafter "Thiel"). Applicants have reviewed the above-cited art and respectfully submit that the embodiments as recited in Claims 1, 3-19, 26-28, 30, 33-35 and 37-39 are patentable over Hunt in view of Williams and Thiel for at least the following rationale.

Independent Claim 1 recites the features (emphasis added):

An information exchange system comprising:
a link to a communication network coupled to at least one shipper user, at least one carrier user, and a plurality of partner databases storing information related to carrier availability;

a database coupled to said link, said database storing a demand entry and a plurality of carrier entries that arrive to said database through said communication network, said demand entry comprising shipping demand specifications and said plurality of carrier entries comprising carrier availability information;

a logic unit coupled to said database, said logic unit receiving said demand entry, automatically selecting one of said plurality of carrier entries based on an attribute of said demand entry, and automatically booking said selected carrier entry in response to said demand entry;

an application program interface coupled with said link and with said logic unit, said application program interface configured for allowing said logic unit to access said information related to carrier availability from said partner databases;

an integrated exchange computer of said information exchange system, said information exchange computer coupled with said link, wherein said database, said application program interface, and said logic unit are part of said integrated exchange computer; and

wherein said partner databases belong to partner exchange entities that are distinct from said carrier and shipper users of said information exchange system, are registered with said integrated exchange computer, maintain information regarding shipping demand or carrier information separate from said database, and provide access to said information to said integrated exchange computer via said application program interface.

Claim 30 recites similar features. The Applicants submit that the features recited in independent Claims 1 and 30 are not rendered obvious by Hunt in view of Williams

and/or Thiel. More specifically, neither Hunt, Williams, nor Thiel is understood to disclose (emphasis added)

... a link to a communication network coupled to at least one shipper user, at least one carrier user, and a plurality of partner databases storing information related to carrier availability ... wherein said partner databases belong to partner exchange entities that are distinct from said carrier and shipper users of said information exchange system, are registered with said integrated exchange computer, maintain information regarding shipping demand or carrier information separate from said database...

as is recited in Claim 1 and similarly in Claim 30.

The instant Office Action, §8a, states, "... Hunt discloses the use of a partner subsystem (9) with a request database, that is different from the transportation database, and which ports data to the centralized database, which stores demand specification information, See Claims 6-9, Column 4, lines 45-62." Applicants again disagree, and submit that Hunt does not disclose the use of a partner database as described in Applicants' Claims 1 and 30. Instead, Applicants understand that Hunt discloses in column 4, lines 45-48 (emphasis added): "Subsystem 9 represents an input/output point at a carrier or shipper site that is porting data to centralized database 50 which can be administered by the carrier, shipper, or a third party." Applicants submit that viewing Figure 1 of Hunt in conjunction with the text of col. 4, lines 24-62 of shows that subsystems 8 and 9 of system 10 are merely input/output points that are coupled with a central database 50.

While Claims 6-9 of Hunt mention both a transportation database and a request database, Applicants submit that Hunt's provides no context for where these databases are located and does not specify if these databases are separate from the central database 50 or a part of central database 50. Moreover, Hunt is silent with respect to whether these databases mentioned in claims 6-9 (or any database mentioned in Hunt) is a partner database that belongs to a partner exchange entity that is distinct from said carrier and shipper users of said information exchange system, as is described in Claims 1 and 30. Applicants submit that there is no support for the Office Action's contention in §8a that

subsystem 9 includes or is used with a request database or that the request database of Hunt is separate from database 50 of Hunt. Additionally, the Applicants submit that one skilled in the art would not equate an input/output point as disclosed by Hunt with the partner databases recited in Claims 1 and 30. To that end, Applicants submit that Hunt is silent with respect to partner databases, links thereto, or receipt of information there from, as are described in Claims 1 and/or 30.

Moreover, these contentions of the Office Action with respect to subsystem 9 being a partner subsystem with a request database appear to be conclusory, and per MPEP 2141(III), “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness,” emphasis added. In re Kahn, 441 F. 3d 977, 988 as cited by KSR International Co. v. Teleflex Inc. (KSR), 550 U.S. 398, 82 USPQ2d at 1396 (2007). As there is no articulated reasoning supporting these discussed contentions of the Office Action, Applicants submit that Hunt does not teach, suggest, or otherwise render obvious “... a plurality of partner databases storing information related to carrier availability ... wherein said partner databases belong to partner exchange entities that are distinct from said carrier and shipper users of said information exchange system,” as recited in Claim 1 and similarly in Claim 30. Instead, Applicants submit that Hunt is silent with respect to partner databases, links thereto, or receipt of information there from, as are described in Claims 1 and/or 30.

The Applicants submit that Williams and Thiel both fail to overcome the shortcomings of Hunt. The Applicants do not understand Williams or Thiel, alone or in combination with one another and/or Hunt, to disclose “... a plurality of partner databases storing information related to carrier availability ... wherein said partner databases belong to partner exchange entities that are distinct from said carrier and shipper users of said information exchange system,” as recited in Claims 1 and 30.

On page 4, §8c, the Office action indicates that “Databases are simply a collection of data. Therefore who the database belongs to is not considered to be functional to the

system.” Applicants respectfully disagree with any contention that the location of a database, the information of a database, and/or the ownership of a database is/are non-functional to a system as these factors may indeed define and control both the structure and function of a system.

Therefore, the Applicants submit that Hunt alone, or in combination with Williams and/or Thiel, fails to teach or suggest all of the features of Claim 1 or Claim 30. Furthermore, the Rejection fails to explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.

For at least the foregoing rationale, Applicants respectfully submit that Claims 1 and 30 are patentable over Hunt in view of Williams and in further view of Thiel, and that these claims overcome the rejection under 35 U.S.C. §103(a). Accordingly, the Applicants submit that the rejections of Claims 1 and 30 under 35 U.S.C. §103(a) are not supported by the cited art. Claims 3-19 and 26-28 depend from Claim 1 and recite additional features descriptive of embodiments of the present invention. Accordingly, the Applicants submit that the rejection of Claims 3-19 and 26-28 under 35 U.S.C. §103(a) are also not supported by the cited art. Claims 33-35 and 37-39 depend from Claim 30 and recite additional features descriptive of embodiments of the present invention. Accordingly, the Applicants submit that the rejection of Claims 33-35 and 37-39 under 35 U.S.C. §103(a) are also not supported by the cited art.

Claims 5 and 34, Unsupported Official Notice

With respect to Claims 5 and 34, the instant Office Action states:

Hunt ... fails to disclose the logic unit allows a user to define a subgroup within the exchange system, and assign unrestricted access to only members of the subgroup. The examiner takes official notice that the use of defining a group who has unrestricted access to the system is old and well known in the art.

See the instant Office Action, page 10, section 30 (emphasis added).

By only generally referring to features of Windows® network products, not providing citations of support for these generalizations, and not relating such art to Applicants' claims, Applicants respectfully submit that the instant Office Action has provided inadequate support of a finding of Official Notice. Applicants are not disputing that Windows® network products may have such features. Rather, Applicants are disputing that it is not proper to take Official Notice of such a general topic and then use a conclusory line of reasoning to reject as obvious a feature of Applicants' system, which is claimed in a very particularized manner in comparison to the generalized finding of the Official Notice. As previously discussed, per MPEP 2141(III), "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness," emphasis added. Applicants are merely requesting that the Office Action supply some articulated reasoning to link the Official Notice to Applicants claimed system of Claim 5 (which would include all of the features of Claim 1).

The Office Action appears to be attempting to shift the burden of response to the Applicants prior to and without satisfying the Office's initial burden of citation of support and a rejection with articulated reasoning. Accordingly, Applicants respectfully request that the Examiner provide adequate evidence in the form of articulated reasoning and an affidavit in support of the finding of Official Notice, in accordance with 37 CFR § 1.104(d)(2)/ a citation which supports the Official Notice, or withdraw the Official Notice rejections with respect to Claims 5 and 34.

Claims 20-25, 29, 36 and 40-42

The instant Office Action states that Claims 20-25, 29, 36 and 40-42 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hunt in view of Williams, and in further view of Nel (U.S. Patent Application Publication No. 2003/0036935). Applicants have reviewed the above-cited art and respectfully submit that the embodiments as recited in Claims 20-25, 29, 36 and 40-42 are patentable over Hunt in view of Williams, and in further view of Nel for at least the following rationale.

Claims 20-25 and 29 are dependent on independent Claim 1 and include the features of Claim 1. Claims 36 and 40-42 are dependent on independent Claim 30 and include the features of Claim 30. As described above, Applicants submit that neither Hunter nor the combination of Hunter in view of Williams teaches or suggests the features of Applicants' Claims 1 and 30. The Applicants submit that Nel fails to overcome the shortcomings of Hunt in view of Williams.

More specifically, neither Nel, nor Hunt in view of Williams and further in view of Nel, teaches, suggests, or otherwise renders obvious "... a plurality of partner databases storing information related to carrier availability ... wherein said partner databases belong to partner exchange entities that are distinct from said carrier and shipper users of said information exchange system," as is recited in Claim 1 and similarly in Claim 30. Instead, Nel also appears to be silent to such features that involve partner databases.

For at least the foregoing rationale, Applicants respectfully submit that the rejection of Claims 1 and 30 under 35 U.S.C. §103(a) is not supported by Hunt in view of Williams and further in view of Nel. Claims 20-25 and 29 depend from Claim 1 and recite additional features descriptive of embodiments of the present invention. Accordingly, the Applicants submit that the rejection of Claims 20-25 and 29 under 35 U.S.C. §103(a) are also not supported by the cited art. Claims 36 and 40-42 depend from Claim 30 and recite additional features descriptive of embodiments of the present invention. Accordingly, the Applicants submit that the rejection of Claims 36 and 40-42 under 35 U.S.C. §103(a) are also not supported by the cited art.

CONCLUSION

In light of the above-listed remarks and amendments, reconsideration of the rejected claims is requested. Based on the arguments presented above, it is respectfully submitted that Claims 1, 3-30 and 33-42 overcome the rejections of record. Therefore, allowance of Claims 1, 3-30 and 33-42 is respectfully solicited.

Should the Examiner have a question regarding the instant response, the Applicants invite the Examiner to contact the Applicants' undersigned representative at the below-listed telephone number.

Respectfully submitted,
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Date: March 23, 2010

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